

**Iowa Department of Natural Resources  
Environmental Protection Commission**

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**ITEM**

**9**

**Decision**

**TOPIC**

**Final Rule – Adopt IAC 567 Chapter 213– “Packaging-Heavy Metal Content”**

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The Commission is requested to approve the attached Notice Final Rule to adopt IAC 567—Chapter 213 “Packaging-Heavy Metal Content”. This rulemaking is in response to Senate File 344, passed by the 2007 Iowa Legislature.

A public hearing was held November 14 and written comments were accepted from October 24 through November 14, 2007. No comments were received. The final rule is the same as was presented in the Notice of Intended Action with only minor wording changes made by the code editor.

The proposed rule removes an out of date schedule for reducing concentration levels of heavy metals in packaging, restricts the liability of distributors for the distribution of packaging containing heavy metals without knowledge, and substituted civil enforcement proceedings for the former criminal enforcement provisions.

The Commission is requested to approve this Final Rule.

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Environmental Services Division

December 14, 2007

## ENVIRONMENTAL PROTECTION COMMISSION [567]

### Adopted and Filed

Pursuant to the authority of 2007 Iowa Acts, Senate File 344, the Environmental Protection Commission hereby amends Chapter 213, “Packaging-Heavy Metal Content”, Iowa Administrative Code. Notice of Intended Action was published in the October 24, Iowa Administrative Bulletin as ARC 6355B.

This rule making is in response to 2007 Iowa Acts, Senate File 344. The proposed rule changes are taken directly from the legislation that was passed with only minor formatting changes offered by the code editor.

A public hearing was held on November 14, 2007, at 10:30 a.m. in the Fourth Floor West Conference Room of the Wallace State Office Building. No comments were received. No changes were made to the Notice of Intended Action.

These rules are intended to implement 2007 Iowa Acts, Senate File 344.

The following amendment is adopted.

Adopt the following **changes** to IAC 567—Chapter 213:

These amendments are intended to implement Iowa Code section 455D.19 as amended by 2007 Iowa Acts, Senate File 344.

The following amendments are proposed.

ITEM 1. Amend rule **567—213.3(455D)**, definition of “distributor,” as follows:

“Distributor” means a person who takes title to one or more packages or packaging components purchased for promotional purposes or resale. A person involved solely in delivering or storing packages or packaging components on behalf of third parties is not a distributor.

ITEM 2. Amend subrule 213.4(3) as follows:

**213.4(3)** Concentration levels. The sum of the concentration levels of lead, cadmium, mercury, and hexavalent chromium present in a package or packaging component shall not exceed ~~the following:~~

~~a. Effective July 1, 1992, 600 parts per million by weight, or 0.06 percent.~~

~~b. Effective July 1, 1993, 250 parts per million by weight, or 0.025 percent.~~

~~c. Effective July 1, 1994, 100 parts per million by weight, or 0.01 percent.~~ Concentration levels of lead, cadmium, mercury, and hexavalent chromium shall be determined using American Standard of Testing Materials test methods, as revised, or U.S. Environmental Protection Agency test methods for evaluating solid waste, S-W 846, as revised.

ITEM 3. Amend rule 567—213.5(455D), introductory paragraph, as follows:

**567—213.5(455D) Certification of compliance.** ~~By July 1, 1992, a~~ A manufacturer or distributor of packaging or packaging components shall make available to purchasers, to the department, and to the general public upon request, certificates of compliance conforming to the requirements of this rule. Certificates provided shall substantially conform with either or both, as applicable, of the following forms:

ITEM 4. Amend subrule 213.7(2) as follows:

**213.7(2) Violation.** ~~A manufacturer or distributor who does not comply with the requirements of Iowa Code section 455D.19 is guilty of a simple misdemeanor.~~

a. Violations of this chapter are subject to the provisions of 2007 Iowa Acts, Senate File 344, sections 7 to 11.

b. Each package or packaging component in violation constitutes the basis of a separate offense for purposes of the calculation of penalties pursuant to 2007 Iowa Acts, Senate File 344, section 11(2).

ITEM 5. Amend **567—Chapter 213**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 455D.19 as amended by 2007 Iowa Acts, Senate File 344.